

REMARKS

Claims 1-32 are pending in the application. It is gratefully acknowledged that Claims 29-32 have been allowed. The Examiner has objected to Claims 4-13 and 18-28 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. The Examiner has objected to the Specification because of informalities. The Examiner has objected to Claims 6, 14, 20 and 29-32 because of informalities. The Examiner has rejected Claims 1, 2, 14 and 16 under 35 U.S.C. §103(a) as being unpatentable over Makela et al. (U.S. Publication 2003/0152097) in view of Love et al. (U.S. Publication 2004/0116143). The Examiner has rejected Claims 3, 15 and 17 under 35 U.S.C. §103(a) as being unpatentable over Makela et al. in view of Applicants' Admitted Prior Art (APA).

The specification has been amended herein in accordance with the Examiner's request. Based on at least the foregoing, withdrawal of the objection to the specification is respectfully requested.

Please cancel Claims 4 and 5 without prejudice. Please amend Claims 6-14, 18, 20-22, 24 and 27-32 as set forth herein. No new matter has been added.

Regarding the objections to Claims 6 and 14, the Examiner requested correction of typographical errors in the claims. Claim 6 has been amended to render the objection moot, and Claim 14 has been amended to change "includingwherein" to read "wherein", and change "beingare" to read "are" set forth herein. Based on at least the foregoing, withdrawal of the objections to Claims 6 and 14 is respectfully requested.

Regarding the objection to Claims 6, 20 and 29-32, the Examiner stated that "k" was not adequately defined. It is respectfully submitted that "k" is defined in the amended claims. Based on at least the foregoing withdrawal of the objection to Claims 6, 20 and 29-32 is respectfully requested.

Regarding the rejection of independent Claims 1 and 14, the Examiner states that Makela et al. in view of Love et al. renders the claims unpatentable. Makela et al. discloses transmitting packet data; and, Love et al. discloses a method and apparatus for providing a distributed architecture digital wireless communication system. Each of independent Claims 1 and 14 recite, at least, “wherein the weighting factors is determined **individually** for the scheduling commands.” The Examiner cites Makela et al. at paragraph [0029] as disclosing this element. Paragraph [0029] of Makela et al. states, (emphasis added):

[0029] In FIG. 2, separate send **queues** 21, 22 and 23 are assigned for each of the three traffic handling priorities in the interactive traffic class. The data packets are sent forward from the **queues** e.g. by using WFQ (Weighted Fair Queuing) method. The WFQ function 24 may be implemented such that the **weights of the queues** are configurable by the user of the network element (e.g. the operator of the network 2 or the user of the mobile station 1). The embodiments of the present invention enable dynamic adjustment of the **weights of the queues** in accordance with the number of the PDP contexts that are using the queues. The **weights of the queues** may be assigned and/or the dynamic changing of the weights is preferably implemented during the activation/deactivation of the PDP contexts i.e. the logical connections between the user 1 and the access point 16. By means of the dynamic adjustment of the weights the relative priorities of the data packets in the interactive traffic class may remain the same regardless of the number of the active PDP contexts.

Since Claim 1 and 14 recite that “the weighting factors is determined **individually** for the scheduling commands” and Makela et al. recites that weights are determined, not individually, but for the queues, Makela et al. cannot be used to render the Claims unpatentable. Love et al. does not cure this defect of Makela et al.

Claims 1 and 14 of the present application disclose that a user equipment (UE) receives scheduling commands transmitted from Node Bs. In this regard, the Examiner asserts that Makela et al. teaches the use of prioritizing the plurality of data units of the node and transmitting that information through means provided by the communication system in place (see paragraphs [0015]-[0017]). In this limited regard of disclosing transmitting scheduling commands from node B is Makela et al. similar to the present invention.

However, the scheduling commands of the claims of the present application include information about maximum data rates of the Node Bs or information about bits indicating whether the Node Bs are permitting uplink transmission from the UE. In other words, when data is transmitted on an Enhanced Uplink Dedicated transport Channel (EUDCH), the scheduling commands including the data rate information allowable by each of the Node Bs are generated according to each of the Node Bs and transmitted to the UE.

On the contrary, the information of Makela et al. is information that relates to the number of logical connections. A node adjusts the weight of data units to be transmitted from a queue according to the information, and then transmits the data units in the queue (see claim 2 and paragraph [0016]). Accordingly, the information of Makela et al. is not related to the scheduling commands of the claims of the present application at all. Makela et al. fails to teach any feature corresponding to the scheduling commands of the claims of the present application.

Based on at least the foregoing withdrawal of rejection of independent Claims 1 and 14 is respectfully requested.

Independent Claims 1 and 14 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3 and 15-17, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3 and 15-17 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-3 and 6-32, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the typed name.

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